

[REPUBLIC ACT NO. 9339, September 01, 2005]

AN ACT FURTHER AMENDING THE FRANCHISE OF VISAYAN ELECTRIC COMPANY INC., GRANTED UNDER ACT NO. 3499, AS AMENDED, TO CONSTRUCT OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITIES OF CEBU, MANDAUE AND TALISAY AND THE MUNICIPALITIES OF MINGLANILLA, NAGA, SAN FERNANDO, CONSOLACION AND LILO-AN, PROVINCE OF CEBU AND RENEWING/ EXTENDING THE TERM OF THE FRANCHISE TO ANOTHER TWENTY-FIVE YEARS FROM THE DATE OF APPROVAL OF THIS ACT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. The franchise granted to Visayan Electric Company, Inc. under Act No. 3499, as amended, is hereby further amended to read as follows:

"SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to Visayan Electric Company, Inc. (VECO), hereunder referred as the grantee, its successor or assigns, a franchise to construct, operate and maintain in the public interest and, commercial purposes, a distribution system for the conveyance of electric power to the end-users in the cities of Cebu, Mandaue and Talisay and the municipalities of Minglanilla, Naga, San Fernando, Consolacion and Lilo-an, Province of Cebu. The herein grantee has provided the Province of Cebu electric light, heat and power supply since 1928 under Act No. 3499, as amended.

"As used in this Act, distribution system refers to the system of wires and associated facilities including sub-transmission lines belonging to a franchised distribution utility extending between the delivery point on the national transmission system of generating facility and the metering point/facility of the end-user."

"SEC. 2. *Manner of Operations of Facilities.* - All electric distribution facilities, lines and systems for electric services owned, maintained, operated or managed by the grantee, its successors or assigns, shall be operated and maintained at all times in a superior manner, and it shall be the duty of the grantee, its successors or assigns, whenever required to do so by the Energy Regulatory Commission, hereafter referred to as ERC, or its legal successor, or the Department of Energy, herein after referred to as DOE or its legal successor, or any other government agency concerned, to modify; improve and change such facilities or

systems in such manner and to such extent as the progress in science and improvement in the electric power services may render reasonable and proper.

"Whenever practicable and for purpose of maintaining order, safety and aesthetics along the highways, roads, streets, alleys or right of way, the grantee may allow the use of free spaces in Its poles, facilities or right-of-way by interested parties upon reasonable compensation to the grantee considering cost incurred to accommodate and administer the use of the grantee's facilities by such parties. The ERC shall decide in case of dispute or disagreement between the parties."

"SEC 3. *Authority of the Energy Regulatory Commission.* — The grantee shall secure from the ERC, or any other government agency which has jurisdiction over the operation of the herein grantee, the necessary certificated public convenience and necessity and other appropriate permits and licenses for the construction and operation of its electric distribution system."

"SEC. 4. *Ingress and Egress.* - For the purpose of erecting and maintaining poles and other supports for said facilities, wires or other conductors or for the purpose of laying and maintaining said facilities, wires, cables or other conductors, it shall be lawful for the grantee, its successors or assigns, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government units (LGUs) concerned, as may be appropriate, to make excavations, or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said provinces and/or municipalities: Provided, however, That any public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of erection of poles or other supports, or the laying of wires, other conductors or conduits, shall be immediately repaired and properly restored at the expense of the grantee, its successors or assigns, in accordance with the standards set by the DPWH and LGUs."

"SEC 5. *Responsibility to the Public.* - The grantee shall supply electricity to its captive market in the least cost manner. In the interest of the public good and as far as feasible and whenever required by the ERC, the grantee shall modify, improve or change its facilities, poles, lines, systems and equipment for the purpose of providing efficient and reliable service and reduced electricity costs. The grantee shall charge reasonable and just power rates for its services to all types of consumers within its franchised areas in order that business and industries shall be able to compete.

"The grantee shall have the obligation to provide open and nondiscriminatory access to its distribution system and services for any end-user within its franchise area consistent with Republic Act No. 9136. The grantee shall not engage in any activity that will constitute an abuse of market power such as, but not limited to, unfair trade practices, monopolistic schemes and any other activities that will hinder competitiveness of businesses and industries."